

### **REMARKS**

Applicant respectfully requests the examiner to reconsider and withdraw the rejections under 35 U.S.C. §§ 112, 101, 103(a) and the double patenting rejection in view of the above amendment and the following remarks.

#### ***35 USC §112***

The examiner has rejected claim 1 under 35 U.S.C. 112, first paragraph, asserting that because the specification, while being enabling for a silicone modified polysaccharide, does not reasonably provide enablement for any polymer deposition aid. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. In response, applicants have amended claim 1 to address this rejection.

The examiner asserts that claim 35 provides for the use of a laundry treatment composition but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

The examiner has further rejected claim 35 under U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. In response, claim 35 has been amended to add an active process step to address the § 112 and § 101 rejections.

### ***Double Patenting***

The examiner has provisionally rejected claims 1-35 under the judicially created doctrine of double patenting over claims 1 and 3-37 of copending Application No. 10/726,823. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The examiner further asserts that the subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: The present application claims a silicone, perfume, and deposition aid. The copending application claims a silicone, a viscosity modifying agent which may be a perfume, and the identical deposition aid.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application.

In response, applicants respectfully assert that if the "provisional" double patenting rejection becomes the only rejection primarily in the application, the examiner is respectfully requested to withdraw the rejection allowing the instant case to issue thereby converting the provisional double patenting rejection to a double patenting rejection for Application No. 10/726,823. MPEP 804(I)(B), 8<sup>th</sup> Ed. Rev. – 3, Oct. 2005.

### ***35 USC § 103***

The examiner has rejected claims 1-35 under 35 U.S.C. 103(a) as being unpatentable over Clark, et al., WO 00/18861. The examiner asserts the following:

Clark, et al., teach a treatment method for fabrics utilizing a deposition aid having a polysaccharide polymeric backbone and a benefit agent moiety attached thereto. The benefit

agent moiety undergoes a chemical change such that the affinity of the material onto the fabric is increased (see abstract). Suitable benefit agent moieties of the invention include silicones (page 14, lines 24-25). Additional preferred components of these fabric care compositions include fabric softeners, such as silicones, as well as perfumes (page 15, lines 4-10). An example of such a composition is an aqueous laundry detergent comprising a nonionic surfactant, a deposition aid polymer, and the balance water (page 45, example 7).

The reference does not specifically teach the combination of a deposition polymer, silicone, and a perfume. As all of these components, however, are either essential or preferred in the laundry treatment compositions of the invention, it would have been obvious to one of ordinary skill in the art to combine these components with a reasonable expectation of successfully obtaining a fabric treatment composition. Applicants respectfully traverse this rejection.

W0 00/18861 teaches a deposition aid having a polysaccharide polymeric backbone which has been modified in a specific way such that it comprises certain groups, such as silicones, perfumes, etc., which are attached to the backbone via a hydrolytically stable bond. There is no disclosure of a silicone having a perfume dissolved or dispersed therein that is separate from the deposition aid as required in amended claim 1.

The examiner has rejected claims 1-35 under 35 U.S.C. 103(a) as being unpatentable over Hunter, et al., US 6,939,842. The examiner asserts the following:

Hunter, et al., teach a laundry treatment composition comprising a silicone and a substituted polysaccharide (see abstract). An example of such a composition is an emulsion comprising nonionic surfactant, polydimethylsiloxane, and silicone substituted polysaccharide (col. 27, example 1). Another example is an emulsion comprising nonionic surfactant, aminosilicone, and silicone substituted polysaccharide (col. 27, example 1). Note that the silicones of the invention comprise polydialkyl siloxanes, amino siloxanes, and mixtures thereof (col. 34, claim 10).

Hunter, et al., do not specifically teach a perfume, nor do they teach the combination of a deposition polymer, silicone and a perfume. As perfumes are ubiquitous in laundry

detergents for providing a pleasing fragrance, the examiner maintains that one of ordinary skill in the art would provide a perfume in the final form of the laundry treatment compositions of the invention and so render obvious the presently claimed composition. Applicants respectfully traverse this rejection.

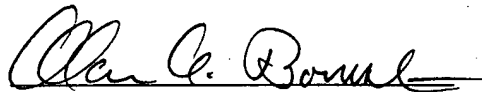
US 6,939,842 teaches a laundry treatment composition comprising a silicone and a substituted polysaccharide in the form of an emulsion. No disclosure or suggestion is given of a perfume being dissolved in the silicone. The examiner asserts that as perfumes are ubiquitous in laundry detergents, one of ordinary skill in the art would be led to the present invention. This is not true, however, as there is no disclosure or suggestion in the prior art towards dissolving or dispersing the perfume in the silicone oil.

#### **CONCLUSION**

Claims 1 and 35 have been amended for the reasons discussed above. Claims 3-4, 6, 10-13, 19-20, 24, 27, 29-30 and 33-34 have been amended to delete "preferable", "e.g.", and similar expressions, and dependent claims 36-54 have been added to restore the preferred ranges deleted in these amendments. No new matter has been added by these amendments.

In light of the above amendments and remarks, applicants submit that all claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested. The examiner is invited to contact the undersigned if there are any questions concerning the case.

Respectfully submitted,



Alan A. Bornstein  
Registration No. 40,919  
Attorney for Applicant(s)

AAB/ss  
(201) 894-2180